

Subpart A—General Provisions

§ 1450.1 Definitions.

(a) The term *agency* means the Federal Mediation and Conciliation Service (FMCS) or any other agency of the U.S. Government as stated at §1450.20.

(b) The term *agency head* means the Director of the Federal Mediation and Conciliation Service.

(c) The terms *appropriate agency official* or *designee* mean the Director of the Financial Management Staff of FMCS, or such other official as may be named in the future by the Director of FMCS.

(d) The terms *claim* and *debt* are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization or entity, except another Federal agency.

(e) A debt is considered *delinquent* if it has not been paid by the date specified in the agency's written notification or applicable contractual agreement, unless other satisfactory payment arrangements have been made by that date, or if at any time thereafter the debtor fails to satisfy obligations under a payment agreement with the agency.

(f) The term *referral for litigation* means referral to the Department of justice for appropriate legal proceedings.

§ 1450.2 Exceptions.

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR part 101–41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulations (FAR) shall be determined, collected, compromised, terminated, or settled in accordance with those regulations. (See 48 CFR part 32). If not otherwise provided for in the FAR system, contract claims that have been the subject of a contracting officer's final decision in accordance with section 6(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605(a)), may be

determined, collected, compromised, terminated or settled under the provisions of this regulation, except that no additional review of the debt shall be granted beyond that provided by the contracting officer in accordance with the provisions of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605), and the amount of any interest, administrative charge, or penalty charge shall be subject to the limitations, if any, contained in the contract out of which the claim arose.

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice (DOJ) as only the DOJ has authority to compromise, suspend, or terminate collection action on such claims.

(d) Tax claims are also excluded from the coverage of this regulation.

§ 1450.3 Use of procedures.

Procedures authorized by this regulation (including, but not limited to, disclosure to a consumer reporting agency, contracting for collection services, administrative offset and salary offset) may be used singly or in combination, so long as the requirements of applicable law and regulation are satisfied.

§ 1450.4 Conformance to law and regulations.

The requirements of applicable law (31 U.S.C 3701–3719 and 5 U.S.C. 5514 as amended by Pub. L. 97–365, 96 Stat. 1749) have been implemented in Governmentwide standards:

(a) The Regulations of the Office of Personnel Management (5 CFR part 550),

(b) The Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR parts 101–105), and

(c) The procedures prescribed by the Office of Management and Budget in Circular A–129 of May 9, 1985.

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Not every item in the above described standards has been incorporated or referenced in this regulation. To the extent, however, that circumstances arise which are not covered by the terms stated in this regulation, FMCS will proceed in any actions taken in accordance with applicable requirements found in the sources referred to in paragraphs (a), (b), and (c) of this section.

§ 1450.5 Other procedures.

Nothing contained in this regulation is intended to require FMCS to duplicate administrative proceedings required by contract or other laws or regulations.

§ 1450.6 Informal action.

Nothing contained in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 1450.7 Return of property.

Nothing contained in this regulation is intended to deter FMCS from demanding the return of specific property or from demanding, the return of the property or the payment of its value.

§ 1450.8 Omissions not a defense.

The failure of FMCS to comply with any provision in this regulation shall not serve as a defense to the debt.

Subpart B—Administrative Offset—Consumer Reporting Agencies—Contracting for Collection

§ 1450.9 Demand for payment.

Prior to making an administrative offset, demand for payment will be made as stated below:

(a) Written demands shall be made promptly upon a debtor in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, FMCS

will give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interest (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this subpart including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of:

(1) The basis for the indebtedness and the right of the debtor to request review within the agency;

(2) The applicable standards for assessing interest, penalties, and administrative costs (subpart D of this regulation) and

(3) The date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand-delivered. FMCS will exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. Apart from this, there is no prescribed format for the demand letters.

(c) As appropriate to the circumstances, FMCS may include either in the initial demand letter or in subsequent letters, matters relating to alternative methods of payment, policies with respect to use of consumer reporting agencies and collection services, the agency's intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor's entitlement to consideration of waiver.

(d) FMCS will respond promptly to communications from the debtor, within 30 days whenever feasible, and will advise debtor who dispute the debt that they must furnish available evidence to support their contentions.

(e) If, either prior to the initiations of, at any time during, or after completion of the demand cycle, FMCS determines to pursue administrative offset, then the requirements specified in §§1450.10 and 1450.11, as applicable, will be met. The availability of funds for